STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Anderson Medical Supplies, Inc.
Petitioner

v **File No. 21-1697**

National General Insurance Company
Respondent

Issued and entered
this 19th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 4, 2021, Anderson Medical Supplies, Inc. (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of National General Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of two bills pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. This appeal concerns payment for durable medical equipment provided on June 25 and July 25, 2021, to a person injured in an automobile accident on June 7, 2021. The Respondent issued its determination denying payment on November 1, 2021. The Petitioner now seeks reimbursement in the full amount it billed for those dates of service.

The Department accepted the Petitioner's request for appeal on November 3, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent submitted a reply to the Department on January 4, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 14, 2022.

II. Factual Background

In its request, the Petitioner submitted records related to the purchase and delivery of the two devices, a thermal compression device and OrthoCor equipment. The Petitioner argues that these items were medically necessary in the treatment of the injured person.

In its response to the Department, the Respondent cited American College of Occupational and Environmental Medicine (ACOEM) guidelines which state that routine use of cryotherapies in health care provider offices or home use of a high-tech device for the treatment of cervicothoracic pain is not recommended.

III. Analysis

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a physician in active practice for more than 26 years who is board-certified in physical medicine and rehabilitation. The IRO reviewer relied on clinical practice guidelines issued by the American College of Physicians and stated:

> The durable medical equipment provided to the injured person on 6/25/21 and 7/25/21 was not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).
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> In this case, the injured person had symptomatology involving areas that included the neck, left upper limb, and back following a motor vehicle accident on 6/7/21.…The injured person was seen in an emergency room and released on the day of the accident.…The injured person was seen by a provider of chiropractic on 6/10/21 and a thermal (cold) "Wave" intermittent compression device was prescribed for use on the neck and lower back on 6/21/21.…The device was delivered on 6/25/21 and the vendor picked up the device on 10/28/21.…An OrthoCor pulsed electromagnetic field system was prescribed by the provider on 6/21/21 which was applied to the neck.…While superficial thermal modalities can provide some palliative relief in the setting of various musculoskeletal symptoms, there is no high-grade evidence-based literature to support the need for an iceless, intermittent cold compression such as the Wave device in question over superficial ice or heat applications for the treatment of musculoskeletal pain. [References omitted.]…This type of device is not supported by any clinical practice guideline as part of appropriate management for the injured person's conditions.…The most appropriate guidelines for the physical therapy treatments in question are the American College of Physicians clinical practice guidelines.…Pulsed electromagnetic field therapy is occasionally used in clinical practice to address

> various pain conditions.…There is no high-grade literature supporting its clinical effectiveness for any musculoskeletal condition including persistent neck pain. [References omitted.] No marginally significant benefits in analgesia, health, or function would have been reasonably expected with the use of the pulsed electromagnetic field system in question, an OrthoCor device, over independent application of superficial thermal modalities for the injured person.…Pulsed electromagnetic field therapy is not supported by any clinical practice guideline as part of appropriate management for the injured person's conditions.…The services in question have no proven marginal benefit over the simple application of ice packs or heat, exceeded what would be considered necessary and appropriate in the medical literature and clinical practice guidelines. Pursuant to the information set forth above and available documentation…the durable medical equipment provided to the injured person on 6/25/21 and 7/25/21 was not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i).

The IRO reviewer recommended that the Director uphold the Respondent's November 1, 2021, determination denying payment for the durable medical equipment provided to the injured person on June 25 and July 25, 2021.

IV. ORDER

The Director upholds the Respondent's November 1, 2021, determination.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford